

ph W. Shea III (0002758 OH)

COURT OF COMMON PLEAS
WARREN COUNTY, OHIO

COMMON PLEAS COURT
WARREN COUNTY, OHIO
FILED

2017 OCT -6 AM 10:02

SHANDRA FORSHA, individually)
and as personal representative of)
the)
estate of KEVIN J. FORSHA)
8186 Sue Avenue)
Franklin, Ohio 45005)

Case No.: ~~17CV 090297~~

Judge: JUDGE ODA

JAMES L. SPANETH
CLERK OF COURTS

Plaintiff,

COMPLAINT

v.

MIAMI VALLEY HOSPITAL
1 Wyoming Street
Dayton, Ohio 45409

and

PREMIER HEALTH
110 North Main Street
Dayton, Ohio 45402

and

BENJAMIN JOSEPH BATES, M.D.
Wright State University
c/o General Surgery Dept.
128 East Apple Street, Suite # 7000
Dayton, Ohio 45409

and

DR. AKPOFURE PETER EKEH
30 Apple Street
Suite 5253
Dayton, Ohio 45409

and

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AARON JOSEPH SCHNEIDER, M.D.
Wright State University
c/o General Surgery Dept.
128 East Apple Street, Suite # 7000
Dayton, Ohio 45409

and

WRIGHT STATE PHYSICIANS
30 Apple Street
Suite 5253
Dayton, Ohio 45409

Defendants.

Now comes the Plaintiff, by and through counsel, and states the following for her
Complaint:

**First Cause of Action
Wrongful Death**

1. Shandra Forsha is the authorized personal representative of the Estate of Kevin J. Forsha as appointed by the Warren County Probate Court.
2. Kevin J. Forsha died on February 5, 2017 at his home located at 8186 Sue Avenue, Franklin, Ohio.
3. The death of Kevin J. Forsha gave rise to an action for wrongful death under the Ohio Revised Code 2125.01.

4. Since the death occurred in Warren County, Ohio, venue in Warren County is proper under Ohio Civ. R. 3 (6) "The County in which all or part of the claim for relief arose".
5. The death of Kevin F. Forsha was the result of mechanics of causation which began with the defendants negligently causing him to enter into a Locked-in Syndrome (LIS) which occurred while he was a patient at Miami Valley Hospital in Dayton, Ohio during April of 2012.
6. Kevin J. Forsha was 50 years of age at the time of his death.
7. As a result of his death, the Plaintiff and next of kin lost his financial support which at is estimated to be \$950,000.00 at present worth.
8. As a result of his wrongful death, the widow lost the services of her husband which have been calculated to have a present value of \$309,679.00.
9. As a result of the Defendants' negligence, the next of kin incurred:
 - a. Loss of the society of the decedent, including loss of companionship, consortium, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, and education, suffered by the surviving spouse, dependent children, parents, or next of kin of the decedent;
 - b. Loss of prospective inheritance to the decedent's heirs at law at the time of the decedent's death;
 - c. Mental anguish incurred by the surviving spouse, dependent children, parents, or next of kin of the decedent.
 - d. Funeral and burial costs.

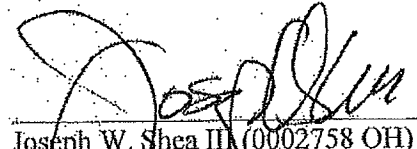
**Second Cause of Action
Survivorship Claim**

10. On April 10, 2016, Kevin J. Forsha was seen in the Emergency Room of Miami Valley Hospital (MVH).
11. At that time he was evaluated and diagnosed with diverticulitis and admitted for a CT guided drain placement.
12. On April 11, 2016, he had onset of slurred speech, which caused a stroke alert to be initiated.
13. On April 12, 2016, "Close neuro monitoring was ordered because of the onset of an alerted mental status.
14. As part of the close neuro monitoring, and while in the Surgical ICU, nurses began performing Glasgow Comma Scale scoring and NIH Stroke Scoring assessments.
15. The nursing staff charted the stroke scoring results together with other information which indicated that the patient was having a nosocomial stroke.
16. There is no evidence of record that the stroke scores, which were highly abnormal, were reported to any physician which such failure would be below the acceptable standard of care for nurses.
17. All nurses providing care to Kevin Forsha were employees or agents of MVH.
18. No physician appears in the chart to have made the diagnosis of the stroke while it was in progress which would be below the acceptable standard of care if any physician were aware of the information charted.
19. The Defendant MVH is responsible for the negligence of any of the named Defendant Doctors.

20. As a result, Kevin J. Forsha was deprived of the interventions that would lessen the degree of harm resulting to him had the treatments then available been utilized.
21. The failure to provide the known interventions within 12-24 hours after onset created an irreversible outcome of the patient falling into a Locked-In Syndrome for the remainder of his life where he could hear and see but could not use any part of his body with the exception of the ability to nod yes or no.
22. The Locked-In Syndrome is the worse, most inhumane and devastating pathology to beset the human form.
23. From April 12, 2016 forward, Kevin J. Forsha was incapable of handling his affairs through to the time of his death.
24. On April 12, 2017, 180-day letters as provided by Revised Code § 2305.113(B) were sent to each named Defendant.
25. As a result of the negligence of one or more of the Defendants, the Plaintiff's husband suffered severe pain and loss of enjoyment of life as did the plaintiff and their family members.
26. As a result of the Defendants negligence, Kevin J. Forsha incurred extremely large amounts on medical bills in an amount to be determined.
27. The act of failing to report scores of an ongoing in-hospital stroke known to MVH staff to a person or authority capable to intervene or cause intervention constitutes willful, reckless and wanton misconduct under Ohio law.

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Wherefore the plaintiff demands judgment against the defendants in an amount in excess of \$25,000.00 and costs together with exemplarily damages if provided by law.



Joseph W. Shea III (0002758 OH)

Attorney for Plaintiff

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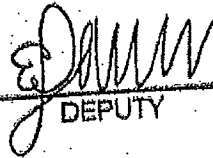
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JAMES L. SPAETH, CLERK
WARREN COUNTY, OHIO
COMMON PLEAS COURT

BY



DEPUTY